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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,986	10/23/2003	Michael F. Carden JR.		1716

7590 09/17/2004

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EXAMINER

ARK, DARREN W

ART UNIT PAPER NUMBER

3643

DATE MAILED: 09/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/692,986

Applicant(s)

CARDEN ET AL.

Examiner

Darren W. Ark

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) 4 and 5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 4 and 5 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 8/25/04.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Robertson 2,572,763.

Robertson discloses a mesh layer (11) positioned within a live bait container (10) having an interior bottom (13) and interior wall surfaces (side of 10), the mesh layer positioned in front of and conforming to the interior wall surfaces and contacting the interior bottom (see Fig. 2), the mesh layer having a rigid lip (14, 11), wherein a portion of the mesh layer below the lip contacts the interior bottom and interior wall surfaces (see Figs. 2, 5).

4. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Joyce 669,751.

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Joyce discloses a mesh layer (A) positioned within a live bait container (B) having an interior bottom and interior wall surfaces (see Fig. 2), the mesh layer positioned in front of and conforming to the interior wall surfaces and contacting the interior bottom (see Fig. 2), the mesh layer having a rigid lip (a), wherein a portion of the mesh layer below the lip contacts the interior bottom and interior wall surfaces (see Fig. 2).

5. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ebert 2,731,760.

Ebert discloses a mesh layer (20) positioned within a live bait container (1) having an interior bottom (2) and interior wall surfaces (see Fig. 3), the mesh layer positioned in front of and conforming to the interior wall surfaces and contacting the interior bottom (see Fig. 3), the mesh layer having a rigid lip (25, 35 which are defined by frame 23 of wire), wherein a portion of the mesh layer below the lip contacts the interior bottom (at 24) and interior wall surfaces (below 3).

6. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Jacobsen 2,787,081.

Jacobsen discloses a mesh layer (41) positioned within a live bait container (4) having an interior bottom (9) and interior wall surfaces (5-8), the mesh layer positioned in front of and conforming to the interior wall surfaces and contacting the interior bottom (see Fig. 2), the mesh layer having a rigid lip (generally at upper bound wire frame 42), wherein a portion of the mesh layer below the lip contacts the interior bottom and interior wall surfaces (see Fig. 2).

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7. Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Japanese Pat. No. 10-323151 to Uno.

Uno discloses a mesh layer (3a) positioned within a live bait container (1) having an interior bottom (see Figs. 1, 2) and interior wall surfaces (see Figs. 1, 2), the mesh layer positioned in front of the interior wall surfaces and contacting the interior bottom (see Fig. 2).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Ark whose telephone number is (703) 305-3733. The examiner can normally be reached on M-Th, 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Darren W. Ark  
Primary Examiner  
Art Unit 3643

DWA